

REMARKS

This is a response to the final Office Action of June 13, 2005.

I. SUMMARY OF OFFICE ACTION

In the Office Action, the Examiner indicated that the Applicant's arguments presented on January 7, 2005 with respect to Claims 29-41, 44, 45 and 46 have been considered but are moot in view of the new grounds of rejection. The Examiner also indicated that the Applicant's arguments filed on January 10, 2005 with respect to Claims 1 and 68 have been fully considered but are not persuasive.

Claims 1-28, 68, 70, 71, 72, were rejected under 35 U.S.C. § 112, first paragraph for failing to comply with the written description requirement.

Claims 1, 4, 8, 11, 12, 17, 21, 25 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh, et al (U.S. Patent No. 6,348,897) in view of Lockhart (U.S. Patent No. 6,173,189). Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh, et al and Lockhart as applied to Claim 1 above, and further in view of Talisa, et al (U.S. Patent No. 5,878,334). Claims 5-7, 10, 13-16, 22, 23 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh, et al and Lockhart in view of well known prior art (Official Notice). Claims 18 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh, et al and Lockhart as applied to Claim 1 above, and further in view of Spall, et al (U.S. Patent No. 6,097,934). Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al and Lockhart as applied to Claim 1 above, and further in view of Kikinis (U.S. Patent No. 5,728,031). Claim 24 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al and Lockhart as applied to Claim 1 above, and further in view of Dennison et al (U.S. Patent No. 5,235,633).

Claims 29, 30, 35, 36, 68, 70, 71 and 72 were rejected under 35 U.S.C. § 103(a) as being unpatentable by Alameh et al in view of Nelson et al (U.S. Patent No. 6,377,218) based on a view that it would have been obvious to one of ordinary skill in the art to use Nelson's flexible and resilient antenna construction material with Alameh's system in order to have an antenna, which posses the qualities necessary to return substantially to a predetermined shape after resting within the housing for extended periods of time.

Claims 31-33, 37-39, 40 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al.. Claim 34 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al as applied to Claim 33 above, and further in view of Cheung et al (U.S. Patent No. 6,541, 908). Claim 44 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al as applied to Claim 29 above and further in view of Spall et al.. Claim 45 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al as applied to Claim 29 above, and further in view of Kikinis. Claim 46 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al as applied to Claim 29 above, and further in view of Dennison et al..

Claims 47-67 have been allowed.

The Examiner indicated that the prior art made of record and not relied upon is considered pertinent to the Applicant's disclosure, specifically, Quinn et al (U.S. Patent No. 6,538,606), Kemp, Jr. et al (U.S. Patent No. 5,867,131), Hirabayashi (U.S. Patent No. 6,535,172), and Hollander et al (U.S. Patent No. 6,172,645).

II. APPLICANT'S RESPONSE

A. Draft Amendment faxed to Examiner on April 19, 2005

A draft amendment was faxed to the Examiner on April 19, 2005. The Examiner has not indicated whether such amendments have been entered into the prosecution of the present case. Applicants assume that such amendments to the claims have not been entered. Accordingly, Applicants responds to the current outstanding Office Action with the assumption that the claims as presented in Applicants' response of January 7, 2005 are being examined.

B. Claims 1, 2 and 4-28

In the Office Action, the Examiner rejected Claim 1 under 35 USC § 112, first paragraph as containing new matter, specifically, the limitation that the sheet is sized and configured to cover the man machine interface to protect the interface from an environment. Applicants have amended Claim 1 by deleting reference to "to protect the interface from an environment." As such, Claim 1 now reads that the sheet is sized and configured to cover the man machine interface when in the folded position.

Applicants respectfully submit that such limitation of Claim 1 is supported by the instant specification. In support thereof, Applicants direct the Examiner's attention to Figure 3 which shows the device in the folded position and the unfolded position. The upper illustration is the device in the unfolded position. As shown, the man machine interface such as buttons 48, transceiver 42 and display 46 are uncovered when the sheet is in the unfolded position. The lower illustration is the device in the folded position. As shown, the man machine interface such as buttons 48, transceiver 42 and display 46 are not visible because they 48, 42, 46 are covered by the sheet. Accordingly, the man machine interface is covered by the sheet when the sheet is in the folded position. Hence, the limitation that the sheet is sized and configured to cover the man machine interface when in the folded position is described in the specification, and such amendment to Claim 1 overcomes the Examiner's rejection under 35 USC § 112, first paragraph.

Additionally, the Examiner rejected Claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. in view of Lockhart. In response, Applicants respectfully submit that Alameh et al. and Lockhart individually and in combination with each other does not disclose a man machine interface covered by a sheet when the sheet is in the folded position.

The disclosure of Alameh et al. may be characterized as disclosing a folded position, specifically, a stowed state. (col. 6, line 58 of Alameh et al). The disclosure of Alameh et al. appears to also disclose a man machine interface, specifically, a speaker, ear piece, keypad, display, control switches and a microphone. (col. 3, lns. 25-27 of Alameh et al). However, as understood, Alameh et al. appears to be silent as to whether the sheet covers the man machine interface when the sheet is in the folded position.

One section of Alameh et al. does discuss the sheet in the folded position and an interface (e.g., electronic port). (col. 6, lns. 32-67). However, Applicants respectfully submit that the interface is not characterizeable as a man-machine interface. In support thereof, a dictionary definition of a "user interface" is "a point at which a user or a user department or organization interacts with the computer system."¹ As understood, the electronic port is not the point at which the user interacts with the computer system. Rather, the electronic port is

¹ McGraw-Hill Dictionary of Scientific and technical Terms 2110 (5th ed McGraw-Hill 1994).

the point at which a second device interacts with the computer system. It may be that the second device that interacts with the electronic port is a man machine interface but the electronic port is still not the point at which the computer system interacts with the user. As such, the electronic port may not be characterized as a man machine interface.

Even if the electronic port was characterizable as a man machine interface, such referenced section of Alameh et al. implies that the electronic port is not covered when the sheet is in the folded position. In support thereof, Applicants respectfully direct the Examiners attention to col. 6, lns. 57-60 which recites that the user is still able to access the card in the folded position via the electronic port. If the user is still able to access the card in the folded position, then Applicants respectfully submit that the electronic port is most likely uncovered when the sheet is in the folded position to allow the second device to interface with the card via the electronic port. Accordingly, Applicants respectfully submit that the disclosure of Alameh et al. does not disclose the limitation of the man machine interface being covered by a sheet when the sheet is in a folded position.

Additionally, there is no motivation to combine the teachings of Lockhart with the teachings of Alameh et al. Even if there was motivation to combine the teachings of Lockhart with the teachings of Alameh et al., the combined teachings of the cited prior art do not disclose all of the limitations of Claim 1 and thus, Claim 1 is believed to be in condition for allowance. The depending claims of Claim 1, namely, Claims 2 and 4-28 are also believed to be in condition for allowance for being depended upon an allowable base Claim 1 and 4 containing additional patentable subject matter.

C. Claims 29-41, 44-46 and 70

In the Office Action, as understood, the Examiner rejected Claim 29 under 35 USC § 103(a) as being unpatentable by Alameh et al. in view of Nelson et al. based on a view that it would have been obvious to one of ordinary skill in the art to use Nelson's flexible and resilient antenna construction material with Alameh's system in order to have an antenna, which possesses the qualities necessary to return substantially to a predetermined shape after resting within the housing for extended periods of time. In response, Applicants have broadened Claim 29 by deleting the limitation that the flexibility of the card be about equal to the flexibility of the sheet.

Applicants respectfully submit that Alameh et al. and Nelson et al. does not disclose all of the limitations recited in Claim 1, specifically, a flexible smart card and an antenna embedded on a sheet. In support thereof, the Examiner's attention is directed to Alameh et al., col. 3, Ins. 46-50 which indicates that the card may be fabricated from metal for maximum rigidity. Further, col. 4, Ins. 24-29 indicates that the sheet may be fabricated from a very flexible material and the antenna element may be fabricated from plastic. Accordingly, Alameh et al. does not appear to disclose a flexible card nor an antenna embedded in a sheet. In Nelson et al., col. 2, Ins. 12-25 indicates that the card is a PCMCAI card and the antenna is resilient. To the extent that the PCMCAI card is not flexible, the disclosure of Nelson et al. does not disclose a card that is flexible. Also, Nelson et al. does not disclose an antenna embedded in a sheet.

Hence, Claim 29 is believed to be novel over the cited prior art. Additionally, Claim 29 is believed to be non obvious over the cited prior art. The dependent claims of Claim 29, namely, Claims 30-41, 44-46, and 70 are also believed to be in condition for allowance for being dependent upon an allowable base Claim 29 and for containing additional patentable subject matter.

D. Claims 47-67

Claims 47-67 are indicated as being allowed.

E. Claims 68, 71 and 72

Claim 68 incorporates the subject matter of the sheet covering the man machine interface when in the folded position, as recited in Claim 1. For the reasons discussed in relation to Claim 1 above, Applicants respectfully submit that Claim 69 is believed to be in condition for allowance over the cited prior art. Claims 71 and 72 are also believed to be in condition for allowance for being dependent upon allowable base Claim 69 and for containing additional patentable subject matter.

F. Claim 69

Claim 69 has been withdrawn.

G. Cited Prior Art

Applicants acknowledge receipt of the cited prior art made of record and not relied upon by the Examiner but considered pertinent to the Applicants disclosure. Applicants respectfully submit that the cited prior art, either alone or in combination, does not anticipate, suggest, or make obvious the instantly claimed invention.

III. CONCLUSION

On the basis of the foregoing, Applicant respectfully submits that Claims 1, 2, 4-41, 44-68, and 70-72 are in condition for allowance. Accordingly, an early Notice of Allowance is respectfully requested. Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicants' representative at the number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: July 20, 2005

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